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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,240	11/14/2003	Kirby Williams Reese	18244-108780	4992

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EXAMINER
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ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/715,240

Applicant(s)

REESE, KIRBY WILLIAMS

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 12/27/04. These drawings are approved.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-9, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by  
Coburn 4,643,271.

Coburn discloses a support component (1) for a platform, intended to be used on soft, or watery or unstable terrain; comprising:

A flexible, wire mesh, gabion container (1) having at least one compartment defined by  
a diaphragm.

A filler material in the form of a light-weight, buoyant in water, aggregate such as polystyrene foam, and/or recycled tires (7); contained within said at least one compartment in order to reduce damage to an impacting vehicle. See col. 2, Ins. 13-59.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-9, 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zaccheroni # 4,394,924 in view of Coburn # 4,643,271.

Zaccheroni discloses a support component (1) for a platform, intended to be used on soft, or watery or unstable terrain; comprising:

A flexible, wire mesh, gabion container (1) having a plurality of compartments defined by a diaphragm.

A filler material contained within said at least one compartment.

What Zaccheroni does not disclose is what type of filler material is being used.

However, Coburn teaches it is known to provide gabion containers with a light-weight aggregate, that is buoyant in water, such as polystyrene foam, and/or recycled tires; in order to reduce damage to an impacting vehicle. See col. 2, lns. 13-59. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the gabion support component, of Zaccheroni, with light-weight, resilient ballast material, as taught by Coburn, in order to reduce damage to an impacting vehicle.

4. Claims 4, 5, 10, 11, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zaccheroni # 4,394,924 in view of Coburn # 4,643,271 as applied to claims 1, 7, 12 above, and further in view of Berger et al. # 4,483,640.

Zaccheroni in view of Coburn discloses a support component (1) for supporting a roadway on soft, or watery or unstable terrain; to include means (3) for connecting the gabion container to one or more gabion containers, to form an elongated structure. But does not disclose wrapping the ballast material in a fabric wrapper. However, Berger et al. teaches gabion containers, it is known to wrap a ballast material disposed within a gabion container, used in watery conditions, to provide said gabion container with a filtering fabric, and that sequentially aligned cells of the container can be provided with varying types of filter fabric, in order to gradually filter out sediments passing through the gabion container. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the gabion container system of Zaccheroni in view of Coburn with a filter fabric, as taught by Berger et al., in order to remove pollution from the environment contacting the gabion container. See Berger col. 1, ln. 31-col. 2, ln. 45.

5. Claims 4, 5, 10, 11, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coburn # 4,643,271 in view of Berger et al. # 4,483,640.

Coburn discloses a support component (1) for supporting a roadway on soft, or watery or unstable terrain; to include means (3) for connecting the gabion container to one or

more gabion containers, to form an elongated structure. But does not disclose wrapping the ballast material in a fabric wrapper. However, Berger et al. teaches gabion containers, it is known to wrap a ballast material disposed within a gabion container, used in watery conditions, to provide said gabion container with a filtering fabric, and that sequentially aligned cells of the container can be provided with varying types of filter fabric, in order to gradually filter out sediments passing through the gabion container. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the gabion container system of Coburn with a filter fabric, as taught by Berger et al., in order to remove pollution from the environment contacting the gabion container. See Berger col. 1, ln. 31-col. 2, ln. 45.

6. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coburn # 4,643,271 in view Berger et al. # 4,483,640 as applied to claims 4, 10, 15 above, and further in view of Webster # 4,797,026.

Coburn and Berger et al. disclose a gabion support assembly (11, 21) for supporting roadways (R), comprising flexible wire mesh cages (3) filled with at least one buoyant, light-weight filler material enclosed within fabric sheets (32, 34) and able to support either natural or artificial plant-life, adjacent the roadway. What Coburn and Berger et al., do not disclose is the use of a water-proof fabric. However, Webster teaches that when multi-layer, roadway support components (10) are needed to support a roadway

over unstable soils (12), it is advantageous to utilize flexible, water-proof strips (22, 24) to separate adjacent cells (16) of aggregate material (14), of a multi-layer, multi-cellular, support assembly (42), and a hardenable liquid coating (18), appropriate for individual situations, such as asphalt, in order to prevent water penetration, into the multiple layers (40) of the support component. See Cols. 3-4. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the gabion support assembly of Coburn in view of Berger et al., with water-proof fabrics, as taught by Webster, in order to facilitate use of artificial plant-life. As reasonably suggested by Coburn; See Col. 3, Ins. 3-19.

7. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zaccheroni # 4,394,924 in view of Coburn # 4,643,271 and Berger et al. # 4,483,640 as applied to claims 4, 10, 15 above, and further in view of Webster # 4,797,026.

Zaccheroni in view of Coburn and Berger et al. disclose a gabion support assembly (11, 21) for supporting roadways (R), comprising flexible wire mesh cages (3) filled with at least one buoyant, light-weight filler material enclosed within fabric sheets (32, 34) and able to support either natural or artificial plant-life, adjacent the roadway. What Zaccheroni in view of Coburn and Berger et al., do not disclose is the use of a water-proof fabric. However, Webster teaches that when multi-layer, roadway support components (10) are needed to support a roadway over unstable soils (12), it is

advantageous to utilize flexible, water-proof strips (22, 24) to separate adjacent cells (16) of aggregate material (14), of a multi-layer, multi-cellular, support assembly (42), and a hardenable liquid coating (18), appropriate for individual situations, such as asphalt, in order to prevent water penetration, into the multiple layers (40) of the support component. See Cols. 3-4. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the gabion support assembly of Coburn in view of Berger et al., with water-proof fabrics, as taught by Webster, in order to facilitate use of artificial plant-life. As reasonably suggested by Coburn; See Col. 3, Ins. 3-19.

#### ***Response to Amendment***

8. Applicant's amendment to the Claims filed 12/27/04, has overcome all objections and rejections of the Last Office Action. However, the changes in the claimed invention, has necessitated a new search of the prior art and a New Grounds of Rejection as put forth above.

#### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.



***Conclusion***


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Papetti # 4,726,708 discloses a gabion system for civil engineering projects. Baldwin # 4,000,923 discloses a gabion emplacement device and method.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 872-9326.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).  
On or about 3/30/05 Examiner Addie's telephone number will become (571) 272-6986.



Thomas Will  
Supervisory Patent Examiner  
Group 3600

RWA  
2/26/05